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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO.543 OF 2004
WITH
INCOME TAX APPEAL NO.546 OF 2004

Patodia Syntex Ltd. ..Appellant.

V/s.

Commissioner of Income tax ..Respondent.

Mr.P.R.Toprani for appellant.

Mr.Ashok Kotangale for respondent.

CORAM : F.I.REBELLO AND
J.P.DEVADHAR, JJ.

DATED : 24TH JULY, 2007.

P.C. :-

This appeal is preferred against the order dated 28th January, 2004 whereby the appeal preferred by the revenue has been allowed.

2. On behalf of the appellant, the learned counsel draws our attention to the Judgment of this Court in **Commissioner of Income Tax V/s. Bangalore Clothing Co. (Bom.)** reported in **260 I.T.R. 371 (Bom.).** He contended that this Judgment was relevant for deciding the controversy in question. The same was not considered possibly as it was not brought to the attention of the learned Tribunal. He also points out

that there are other Judgments which are in favour of the assessee, of this Court as also of Madras High Court.

3. Considering the above and as the matter had proceeded gone ex-parte, in our opinion, ends of justice would be met if the impugned order is set aside and the matter is remanded back to the Tribunal for reconsideration and hearing afresh, after giving an opportunity to the appellant herein.

4. Appeal disposed of accordingly with no order as to costs.

(F.I.REBELL0, J.)

(J.P.DEVADHAR, J.)